

INCOMING TELEGRAM...

Department of State

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Action

Control: 10743

Rec'd: SEPTEMBER 15, 1963

1:46 AM

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Info

FROM: QUITO

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TO: Secretary of State

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NO: 191, SEPTEMBER 14, 11 PM

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ACTION DEPARTMENT 191, INFORMATION LIMA 47, SANTIAGO 25
GUAYAQUIL UNNUMBERED

DEPTEL 143.

MODUS VIVENDI CONCERNING FISHERIES PROBLEM COMPLETED UPON
RECEIPT TODAY AT 5 PM GOE CONFIDENTIAL MEMORANDUM DATED SEPT. 13.
WHILE MODUS VIVENDI ENTERS INTO EFFECT IMMEDIATELY GOE WILL
REQUIRE UNTIL SEPTEMBER 18-20 BEFORE IMPLEMENTING INSTRUCTIONS TO
NAVY AND CONSULS CAN BE ISSUED.

RMR USG MEMORANDUM DIFFERS FROM DEPARTMENT TEXT (DEPTEL 143) IN
FOLLOWING RESPECT:

ARTICLE 1. DELETE CONCLUDING PHRASE "...OF THE MAINLAND
AND OF THE GALAPAGOS ISLANDS".

COMMENT: PHRASE DROPPED IN ORDER TO COUNTER GOE PROPOSAL FOR
ADDITION TO THIS ARTICLE LIST OF COORDINATES AROUND GALAPAGOS
ISLANDS EMBODYING BASE LINES PRINCIPLE.

ARTICLES 3, 4 AND 5. PHRASE REQUIRING PRIOR POSSESSION
OF A VALID MATRICULA ADDED TO EACH THESE ARTICLES.

COMMENT: THIS ADDITION PROPOSED BY GOE ACCEPTED IN VIEW
ITS CONSONANCE WITH UNDERSTANDING ON LICENSE PROCEDURES.

ARTICLE 4.

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ARTICLE 4. SAN DIEGO ADDED AS PORT AT WHICH LICENSES MAY BE PURCHASED IN VIEW NEW ECUADOREAN CONSULATE TO BE OPENED AT THIS IMPORTANT PORT WITHIN TEN DAYS.

THE FOREIGN MINISTER HAS GIVEN ORAL ASSURANCE THAT COORDINATES DEFINING GOE LINE WILL BE REVISED IN ACCORDANCE NEW CHART BEING FURNISHED BY DEPARTMENT. CHART HO 1177 33RD EDITION APPROVED APRIL 1950 AND REVISED OCTOBER 22, 1962 NOT AVAILABLE IN ECUADOR. PLEASE SEND EARLIEST.

THE TEXT OF THE GOE MEMORANDUM DIFFERS FROM THE USG TEXT IN SEVERAL RESPECTS. NONE OF THE DIFFERENCES REFLECT SUBSTANTIVE DISAGREEMENT AND THEREFORE APPEAR TO BE UNOBJECTIONABLE. THE FIRST TWO CHANGES WERE MADE WITH MY CONCURRENCE WHILE THE REMAINDER WERE NOT. THE FOREIGN MINISTER PRESENTED THE GOE MEMORANDUM TO THE JUNTA MILITARY FOR APPROVAL THIS MORNING WITH THE VIEW OF CONCLUDING THE NEGOTIATION IMMEDIATELY. IN DOING SO HE HAD MADE DECISION THAT NECESSITY DID NOT EXIST FOR EXACT AGREEMENT BETWEEN THE TWO MEMORANDA.

THE TEXT OF THE GOE MEMORANDUM DIFFERS FROM USG TEXT IN FOLLOWING RESPECTS:

(1) WITH RESPECT TO AREA BETWEEN USG AND GOE LINES DELIMITING FISHERIES JURISDICTION, GOE MEMORANDUM CONTAINS ADDITIONAL SENTENCE: "IN THE SMALL AREAS OF DIFFERENCE BETWEEN THE TWO LINES, THE TWO GOVERNMENTS WILL DO EVERYTHING POSSIBLE TO AVOID INCIDENTS."

COMMENT: I ACCEPTED THIS GOE PROPOSED ADDITION IN VIEW ITS HARMONY WITH INTENT OF MODUS VIVENDI. ALSO THE FOREIGN MINISTER HAS GIVEN ORAL ASSURANCE THAT THE GOE WILL NOT APPLY ENFORCEMENT THIS AREA AND THAT GOE NAVY HAS SO AGREED.

(2) WITH RESPECT TO THE MANTA CLOSED FISHING ZONE, GOE MEMORANDUM CONTAINS ADDITIONAL SENTENCE "UNTIL THIS QUESTION REACHES A FINAL

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SOLUTION TO WHICH BOTH GOVERNMENTS HAVE COMMITTED THEMSELVES IN ORDER TO ASSURE CONTINUATION OF THE MODUS VIVENDI, THE TWO GOVERNMENTS WILL SEEK TO AVOID INCIDENTS IN THE CLOSED ZONE ESTABLISHED BY THE GOVERNMENT OF ECUADOR".

COMMENT: I ACCEPTED THIS CONDITION FOR THE CONTINUATION OF THE MODUS VIVENDI AS BEING IN THE SPIRIT OF OUR AGREEMENT. I HAD EXPECTED THE GOE TO BECOME ALERT TO THIS POINT MUCH EARLIER.

(3) WITH RESPECT TO ENTRY INTO FORCE OF LICENSES PURCHASED BY RADIO, GOE MEMORANDUM CLARIFIES THIS AS 24 HOURS AFTER DATE AND HOUR OF ITS AUTHORIZATION.

COMMENT: ACCEPTABILITY ENTRY INTO FORCE IN TERMS OF DATE AND HOUR STATED IN POINT E OF DEPTTEL 134.

(4) WITH RESPECT TO PURCHASE OF LICENSES AT ECUADOREAN PORTS, GOE MEMORANDUM MAKES NO MENTION OF SAN CRISTOBAL.

COMMENT: FOREIGN MINISTRY ADVISER PARET STATES SAN CRISTOBAL DELETED FOR CONSISTENCY IN NOT TREATING AT ALL WITH GALAPAGOS IN EXCHANGE OF MEMORANDA. LICENSES IN PRACTICE, HOWEVER, WILL BE AVAILABLE FROM SAN CRISTOBAL.

(5) WITH RESPECT TO PURCHASE OF LICENSES AT ECUADOREAN PORTS, GOE MEMORANDUM FURTHER PROVIDES THAT PERMISSION BY RADIO TO ENTER PORT MUST BE REQUESTED NOT LESS THAN EIGHT HOURS BEFORE THE CALCULATED HOUR FOR ARRIVAL AT PORT.

COMMENT: THE PERIOD OF EIGHT HOURS IS CALCULATED BY GOE AS EQUIVALENT TO ABOUT 60 MILES AND REQUIREMENT IS DESIGNED TO AVOID POSSIBLE ABUSES AND CONTROVERSIES INVOLVING US VESSELS FOUND IN GOE WATERS AND CLAIMING TO BE EN ROUTE TO PORT TO OBTAIN PERMIT.

(6) WITH RESPECT TO TAKING INTO ACCOUNT THE PROBLEM OF DRIFT, GOE MEMORANDUM STATES GOE AGREES TO TAKE IT INTO ACCOUNT ONLY WITH RESPECT TO GOE LINE DEFINED BY ANNEXED COORDINATES.

COMMENT:

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COMMENT: SINCE LINES DEFINING RESERVED ZONES IN GULF OF GUAYAQUIL NOT COVERED BY COORDINATES, FONMIN AGREED RECTIFY LACK REFERENCE THESE LINES IN SUBSEQUENT MEMORANDUM WHICH IN ANY CASE REQUIRED TO REVISE COORDINATES ON BASIS NEW CHART.

(7) WITH RESPECT TO RIGHT OF INNOCENT PASSAGE, GOE MEMORANDUM ADDS PHRASE REQUIRING THAT THE RIGHT BE IN CONFORMANCE WITH LAWS AND REGULATIONS OF RIPARIAN STATE.

COMMENT: THIS NOT CONSIDERED INVOLVE ANY POSSIBLE PROBLEM DUE CLAUSE STATING VESSELS "WILL COMPLY WITH MUTUALLY ACCEPTABLE CONDITIONS."

TEXT GOE MEMORANDUM TELEGRAPHED SEPARATELY.

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NOTE: ADVANCE DELIVERY S/S-O AT 1:59 AM, SEPTEMBER 15.

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